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Attorneys for Involuntary Plaintiff Thales Visionix, Inc

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GENTEX CORPORATION and INDIGO
TECHNOLOGIES, LLC,

Plaintiffs,

THALES VISIONIX, INC.,

Involuntary Plaintiff,

v.

META PLATFORMS, INC., and META
PLAINTFORM TECHNOLOGIES, LLC,

Defendants.

Case No.: 4:22-cv-03892-YGR

INVOLUNTARY PLAINTIFF THALES
VISIONIX, INC.'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF SUR-
REPLY TO JOINT MOTION TO DISMISS

Date: February 27, 2024

Time: 2:00 p.m.

Location: Courtroom 1, 4th Floor

Judge: Hon. Yvonne Gonzalez Rogers

Pursuant to Civil Local Rules 7-11 and 79-5(d) and (e), Involuntary plaintiff Thales Visionix, Inc. (“Thales”) hereby moves for an order sealing certain portions of Involuntary Plaintiff’s Sur-Reply to the Joint Motion to Dismiss.

When considering a motion to seal, the Court must “conscientiously balance the competing interests of the public and the party who seeks to keep certain judicial records secret.” *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1097 (9th Cir. 2016) (cleaned up). Where, as here, the motion is only tangentially related to the merits of the case, a “particularized showing” under the good cause standard of Rule 26(c) suffices to grant a motion to seal. *See id.* at 1099; *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179-80 (9th Cir. 2006); *Exeltis USA Inc. v. First Databank, Inc.*, 2020 WL 2838812, at *1 (N.D. Cal. June 1, 2020). Courts routinely conclude that “‘confidential business information’ in the form of ‘license agreements, financial terms, details of confidential licensing negotiations, and business strategies’” satisfy the good cause or compelling reasons standard for sealing. *Exeltis*, 2020 WL 2838812, at *1; *In re Qualcomm Litig.*, 2017 WL 5176922, at *2 (S.D. Cal. Nov. 8, 2017).

Portions of the Sur-Reply refer to Exhibits A and B to Meta’s and Gentex’s Joint Motion to Dismiss (Dkt. No. 137-3), as well as to communications between Thales and Gentex that are subject to Federal Rule of Evidence 408 and which may be subject to a common interest privilege. Exhibit A to the Joint Motion is a copy of a Settlement Agreement between Gentex and Meta dated January 9, 2024. Dkt. No. 137-4. Exhibit B to the Joint Motion is a Term Sheet that was signed by Gentex, Meta, and Thales and then rescinded by Thales. Dkt. No. 137-5. The parties have previously moved to maintain Exhibits A and B under seal, as well as settlement negotiations between the parties, because they reflect their confidential business information. *See, e.g.*, Dkt. Nos. 137, 140, 145-1, 152.

As previously explained in Thales’s motion to seal portions of its Response, the Agreement, Term Sheet, and communications between Thales and Gentex consist of confidential business information of the parties, and portions of the Sur-Reply, highlighted in yellow in the version filed

1 under seal, quote from or discuss the confidential terms of the Settlement Agreement, Term Sheet,
2 and 2012 License Agreement. Tauger Decl. ¶ 4.

3 Accordingly, Thales respectfully requests that the Court seal portions of its Sur-Reply
4 highlighted in yellow.

5 This 14th day of February 2024.

Respectfully submitted,

7 /s/ Paul N. Tauger

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SIGNATURE ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained from the other signatories.

Dated: February 14, 2024

/s/ Paul Tauger
Paul Tauger